

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trad mark Offic**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/7952,475	03/09/98	MORIMATSU	F 2520-109P

002292 IM62/0921  
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EXAMINER
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CORBIN, A

ART UNIT	PAPER NUMBER
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1761

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DATE MAILED: 09/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.	Applicant(s)
08/952,415	MORIMATSU ET AL
Examiner ARTHUR L. CORBIN	Group Art Unit 1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

Responsive to communication(s) filed on 8-16-00, 5-17-00.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

Claim(s) 2-4, 7, 10-13, 16, 17 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 2-4, 7, 10-13, 16, 17 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

### Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892

Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948

Other \_\_\_\_\_

## Office Action Summary

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### **DETAILED ACTION**

1. The request filed on August 16, 2000, for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/952,475 is acceptable and a CPA has been established. An action on the CPA follows.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 2-4, 7, 10-13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giese.

Applicant is referred to paragraph no. 7, paper no. 5 and paragraph no. 6, paper no. 8.

4. Claims 7/11, 10/12, 11, 12, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonkowski.

Applicant is referred to paragraph no. 8, paper no. 5 and the last sentence in paragraph no. 6, paper no. 8.

5. Claims 2-4, 7/2-4, 10/13 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonkowski as applied to claims 7/11, 10/12, 11, 12, 16 and 17 above, and further in view of Helmer et al.

Applicant is referred to the reasoning set forth in paragraph no. 9, paper no. 5.

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6. Applicant's arguments filed May 17, 2000, have been fully considered but they are not persuasive.

Applicant's contentions with regard to Giese are without merit since Giese discloses cholesterol reducing properties present in meat products.

Bonkowski suggests reduced cholesterol levels in meats, as applicant recognizes. However, applicant fails to recognize that lowering cholesterol levels in meat will result in lower cholesterol levels in the consumers of such meat. Moreover, soy protein, as present in the meat product of Bonkowski, is a well known cholesterol reducer.

7. All claims are drawn to the same invention claimed in the parent application prior to the filing of this Continued Prosecution Application under 37 CFR 1.53(d) and could have been finally rejected on the grounds and art of record in the next Office action. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing under 37 CFR 1.53(d). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Corbin whose telephone number is (703) 308-3850. The examiner can normally be reached on Monday-Friday from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gabrielle Brouillette, can be reached on (703) 308-0756. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3602.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Corbin/amc

9-13-00



ARTHUR L. CORBIN  
PRIMARY EXAMINER

9-13-00